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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,133	02/06/2004	David J. Kraus		8390

7590 01/27/2005
John L. Schmitt
P.O. Box 656
Geneva, IL 60134-0656

EXAMINER	
ROWAN, KURT C	
ART UNIT	PAPER NUMBER

3643

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,133

Applicant(s)

KRAUS, DAVID J.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Robie et al.

The patents to Wang and Robie show gripper tools that can be adapted to hold a fish upright while a hook is being extracted. Wang shows a first member having an outer handle portion 11 connecting with an upper jaw 111. Wang shows a second member having an inner handle portion connecting with a lower jaw portion with the lower jaw portion pivotally carried in the upper jaw open space. Wang shows a swivel element 31 pivotally carried by the lower jaw portion and having a smooth top wall 312 and a bottom surface prepared to mate with the lower jaw portion 211. The patent to Robie shows a pivot element 30 having an abrasive top surface 31. In reference to claim 1, Wang shows all of the elements recited with the exception of the abrasive top surface of the swivel element. However, it would have been obvious to provide Wang with an abrasive top surface of the swivel element as shown by Robie for the purpose of gripping an irregular work piece. In reference to claim 2, Wang shows the first member outer handle portion being aligned with the second member inner handle portion so that the gripper is readily usable by right or left handed fisherman. In reference to claim 3,

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Wang shows the upper jaw portion sidewalls being divided into lower leg segments and offset upper leg segments with the upper leg segments having radiused outer ends and top edges connected by a top wall as shown in Fig. 1. In reference to claim 5, Wang shows the second member lower jaw formed with an offset and a swivel top element having a bottom surface formed with an offset prepared to mate with and form an interlocking fit with the lower jaw offset portion such that the interlocking fit between the offsets inhibits independent movement of the swivel element. In reference to claim 6, Wang shows the first member handle portion and the second member defined in part by a peripheral flange 11, 14 extending about a central web 13. In reference to claim 9, Wang and Robie do not show a hole in the web of the inner member handle which would correspond to element 13 of Wang, but it would have been obvious to employ a hole in the web having a loop strap for carrying the gripper and to insure the gripper is not lost during fishing. The examiner takes Official Notice that a strap mounted on a tool is old and well known in the art.

Allowable Subject Matter

3. Claims 11-12 are allowed.
4. Claims 4, 7, 8, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Domenge, Ciccotelli, Schimmelman, Zurcher, Kolacinski, Goggburn show other tools that function as a gripper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR